

Customer No.: 31561
Docket No.: 11644-US-PA
Application No.: 10/605,236

REMARKS

Present Status of the Application

Upon entry of the amendments in this response, claims 1-20 are pending of which the claims 1, 3, 10 and 13 have been amended, as well as the claims 2, 11 and 12 have been cancelled without prejudice or disclaimer in order to more explicitly describe the claimed invention. It is believed that no new matter adds by way of amendments made to the claims. For at least the foregoing reason, applicants respectfully submit that claims 1, 3-10, 13-20 patently define over prior art of record and reconsideration of this application is respectfully requested.

Discussion for the 102 & 103 Rejections

Claims 2-3, 6, 12-13 and 20 are rejected as being dependent upon a rejected base claim.

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Applicants appreciate the examiner's pointing out the preceding allowable subject matter. In response thereto, applicants have amended claims 1 and 10 and cancelled claims 2 and 12 without disclaimer, prejudice or waiver. More specifically claims 1 and 10 have been amended to incorporate the subject matter of claims 2 and 12, respectively which the Examiner considered as allowable subject matter. The submission of the amendments by the Applicants is solely to advance the prosecution of the application, without conceding that the 102 and 103 rejections are properly based.

Regarding dependent claims 3-9 and 13-20, they are patentable as a matter of law for at the reason that they contain all limitations of their corresponding patentable independent claims 1 and 10.

Although the original independent claims 1 and 10, as well as the dependent claims 2, 11-12 have been cancelled, applicants plan to reserve the right to pursue the subject matter of the canceled claims in a continuation application. Applicants also emphasized that claim amendment that merely rewrites a dependent claim in independent form should not be considered a claim amendment that narrows the scope of the claim. Such an amendment does not add anything to the dependent claim. See 35 U.S.C.A. § 112, ¶ 4 ("[A] claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers."). Thus, Applicants submit that no substantive limitations have been added to the amended claims. Therefore, no prosecution history estoppel arises from this amendment.

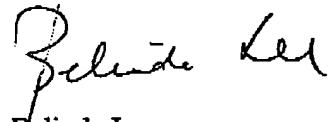
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CONCLUSION

For at least the foregoing reasons, it is believed that all the pending claims 1, 3-10, 13-20 of the present application patentably define over the prior art and are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

Respectfully submitted,

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